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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHELLE TRANIECE DAVIS,

Defendant and Appellant.

B233854

(Los Angeles County  
Super. Ct. No. BA366142)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Leslie S. Swain, Judge. Affirmed as modified and remanded, with directions.

California Appellate Project, Jonathan B. Steiner, Executive Director, and  
Richard B. Lennon, Staff Attorney, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Respondent.

## PROCEDURAL BACKGROUND

On May 6, 2011, an information was filed, charging appellant Michelle Traniece Davis with 13 counts of robbery (Pen. Code, § 211; counts 1 through 5, 8 through 10, 12, 13, 22 through 24) and one count of attempted robbery (Pen. Code, §§ 211, 664).<sup>1</sup> Accompanying ten of the counts were allegations that appellant had been armed with a firearm within the meaning of section 12022, subdivision (a)(1) (counts 1 through 5, 8 through 13); in addition, accompanying the remaining three counts were allegations that appellant had personally used a firearm within the meaning of section 12022.53, subdivision (b) (counts 22 through 24). Appellant pleaded not guilty and denied the special allegations.

On March 29, 2011, the trial court granted appellant's motion under section 995 to dismiss one count of robbery (count 13). The next day, at the prosecution's request, the court dismissed the firearm allegations under section 12022.53, subdivision (b), with the exception of the allegation accompanying one count of robbery, namely, count 23. Following this ruling, appellant entered into a plea agreement under which she was to be given a term of 18 years in state prison. In accordance with the agreement, appellant pleaded nolo contendere to the charges against her and admitted the remaining firearm allegation.

On April 15, 2011, the trial court sentenced appellant to a total term of 18 years in prison, composed of the high term of 5 years on count 23, 10 years for the accompanying firearm allegation under section 12022.53, subdivision (b), and one-third of the 3-year middle term on three other counts of robbery (counts 1 through

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<sup>1</sup> The information also charged Rodney Lamont Lewis, Jr., and Abia Dee Phillips with numerous counts of robbery. Neither defendant is a party to this appeal.

All further statutory citations are to the Penal Code.

3). Regarding the remaining counts, the court imposed the middle term, to be served concurrently.

### **DISCUSSION**

After an examination of the record, appellant's court-appointed counsel filed an opening brief raising no issues and requested this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436. In addition, counsel advised appellant of her right to submit by supplemental brief any contentions or argument she wished the court to consider. Appellant has presented no such brief.

The scope of our independent review of the record is circumscribed by appellant's plea agreement and notice of appeal. "When a defendant has entered a plea of guilty or no contest, the bases for an appeal from the resulting conviction are limited." (*People v. Johnson* (2009) 47 Cal.4th 668, 676.) A defendant must obtain a certificate of probable cause (§ 1237.5) to attack the plea agreement itself or the sentence imposed, insofar as "the challenge goes to an aspect of the sentence to which the defendant agreed as an integral part of [the] plea agreement." (*People v. Johnson, supra*, at p. 678.) In the absence of a certificate of probable cause, a defendant may contend only (1) that a motion to suppress evidence was improperly denied, or (2) that after the plea, "errors occurred in the subsequent adversary hearings conducted by the trial court for the purpose of determining the degree of the crime and the penalty to be imposed.'" (*People v. Brown* (2010) 181 Cal.App.4th 356, 360, quoting *People v. Ward* (1967) 66 Cal.2d 571, 574.) Here, appellant obtained no certificate of probable cause, and her notice of appeal expressly limits the appeal to errors of the second type. Accordingly, no issue regarding the plea agreement is properly before us, including the total length of the sentence imposed, which was an element of the agreement.

Following our review of the record, we asked the parties to brief whether the abstract of judgment incorrectly reflected the imposition of a \$130 crime prevention fine (§ 1202.5), in view of the fact that the trial court orally imposed a \$10 crime prevention fine. Respondent agrees that only a \$10 crime prevention fine may be imposed. (*People v. Crittle* (2007) 154 Cal.App.4th 368, 371.) Our examination of the entire record otherwise establishes that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

### **DISPOSITION**

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the imposition of a \$10 crime prevention fine (§ 1202.5), and forward a copy of the amended abstract of judgment to the California Department of Corrections and Rehabilitation.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.